UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1262
17 March 1998

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1262nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 12 March 1998, at 3 p.m.

Chairman: Mr. DIACONU

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Eleventh to fourteenth periodic reports of Yugoslavia (continued)

Initial and second periodic reports of Armenia

MEETING WITH THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.98-15548 (E)

In the absence of Mr. Aboul-Nasr, Mr. Diaconu, Vice-Chairman, took the Chair.

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Eleventh to fourteenth periodic reports of Yugoslavia (CERD/C/299/Add.17; HRI/CORE/1/Add.40) (continued)

1. At the invitation of the Chairman, the members of the delegation of Yugoslavia resumed their places at the Committee table.

2. Mr. SHAHI said that in the course of his statement that morning, to which the representative of Yugoslavia had referred, he had quoted paragraph 11 of the Committee's General Recommendation XXI. That quotation and his remarks thereon must be interpreted strictly in the context of that General Recommendation and not in the context of the rights of minorities, to which he had not referred at all, nor to the United Nations declaration in which those rights were spelled out.

3. Mrs. SAVOVIC (Yugoslavia), replying to a question on education in Kosovo, said that although for over seven years pupils belonging to the Albanian minority had been attending schools operating under the parallel education system, the State had opened more than 90 per cent of primary schools and more than 60 per cent of secondary schools to them. Private schools in Kosovo and Metohija currently offered higher education in Albanian. However, the State also provided education in Albanian at the university of Priština under Serbia's single educational system. In 1992, at the Geneva conference, it had been concluded that failure to make progress towards resolving the issue of education for the Albanian minority had been due to obstruction on the part of the members of that minority, who had not accepted any of the proposals made by the Government. It had been proposed that all the years which pupils had spent outside Serbia's school system would be recognized, that all the teachers of Albanian nationality would be reinstated in their posts and that they would be paid compensation for the salaries they had not received during that period, that the 1990 curricula would be applied in schools, and that Albanian pupils would be enrolled without entrance examinations. The Government had maintained that proposal, but the agreement signed had not been implemented for the political reasons already mentioned. The only condition posed by the Government had been that school documents and diplomas must bear the inscription of the Republic of Serbia, which apparently was unacceptable to the Albanian minority.

4. In the field of health care, satisfactory results could be achieved if there was good faith and cooperation. For instance, the State had carried out a successful inoculation campaign for children with the support of the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF) and with the active participation of the Albanian minority. That initiative had helped to build confidence among many members of the Albanian national minority in the State public health system, many of whom were receiving

medical attention in Serbia's major medical centres free of charge. There was a parallel health-care system, which included 386 private clinics in Kosovo and Metohija, whose owners were members of the Albanian national minority and which offered costly and low-quality services, but the members of the Albanian minority were increasingly resorting to clinics throughout Serbia, as shown by the study of the Public Health Institute of Serbia, which proposed a series of measures for resolving the whole health-care problem in Kosovo and Metohija.

5. Mr. de GOUTTES asked whether the delegation of Yugoslavia was prepared to authorize free access to Kosovo to the International Committee of the Red Cross (ICRC) and other humanitarian organizations.

6. The delegation of Yugoslavia had stated that cooperation with the Hague International Criminal Tribunal for the former Yugoslavia had been effective. In his view, it was insufficient in several respects. He disagreed with the argument that the transfer of Yugoslav criminals before the Court was contrary to a constitutional principle, that of non-extradition of nationals. The principle of excluding nationals did not apply to the case under consideration, because pursuant to the United Nations resolution creating the International Criminal Tribunal, all States were under a legal obligation to cooperate with it. That precluded opposition on grounds of a rule of domestic law.

7. Since Yugoslavia had accepted the individual communications procedure in the framework of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, what was preventing the Government from making the declaration on individual communications under article 14 of the International Convention on All Forms of Racial Discrimination.

8. Mr. DJORDJEVIC (Yugoslavia) said that his Government had made it clear in its statement of 10 March that ICRC was welcome in Kosovo and Metohija and could join their experts in investigating and assessing the situation there. Other international organizations and agencies were already on the scene. There was an office of the High Commissioner for Refugees and of the High Commissioner for Human Rights in Belgrade; their staff could travel without any restrictions. The International Committee of the Red Crescent was also present, as were humanitarian and other non-governmental organizations permanently based there. There had been several visits by Ms. Elizabeth Rehn, Special Rapporteur of the Commission on Human Rights on the situation in the former Yugoslavia. From time to time, requests were granted to visit certain areas.

9. As to the question on cooperation with the International Criminal Tribunal, he had already made the position of his Government sufficiently clear in his previous remarks.

10. With regard to article 14 of the Convention, he pointed out that the Federal Parliament, the only body authorized to make such a declaration, was rarely in session because of problems of an internal nature and because of the overall crisis in Yugoslavia. A formal proposal had been presented to the Parliament, and it was under consideration.

11. Mr. HODZA (Yugoslavia) said that he had a minor correction on a point made by his colleague that morning. In fact, Prizren had more than 30 mosques; there was no village in Kosovo and Metohija where a new mosque had not been built. His Government was not opposed to their construction. The mosques were used not only by Turks, but by all practising Muslims, Islam being the religion of the majority of the population in Kosovo and Metohija. The Turkish national minority, some 10,000 strong, had been living in that region, chiefly in Prizren, for many years.

12. Mr. RECHETOV (Country Rapporteur) said that in his response to the point raised by Mr. van Boven that morning, he had simply wanted to emphasize the fact that his position was also based on the Committee's general recommendations, which he himself had cited because they provided relevant guidelines for the work of the Committee.

13. Events in the territory of Yugoslavia over the previous few days were obviously not just an internal problem. While there was no question that it was the constitutional right of the country concerned to decide on the status of various areas in its territory, the problem ceased to be merely an internal one if the police exceeded their authority and force was used in a way that had an adverse effect on the population. He agreed in that connection with Mr. Diaconu and Mr. Lechuga Hevia that the Committee should express its concern about such situations, regardless of whether the events took place in Kosovo, Chechnya, the Basque Country or Ulster. In the course of the discussion, the question of implementation of the right to self-determination had been raised. He did not agree with the interpretation of the delegation of Yugoslavia on that right, which in his view was applicable to national minorities and other communities, but obviously must be exercised in accordance with the accepted rules of international law.

14. With regard to the point made by Mr. Nobel and endorsed by Mr. Shahi on a minority which could also be a majority in a particular part of a country, it was necessary to avoid double standards. After all, such a situation existed in the Crimea, Kashmir and many other areas. In his opinion, the majority-minority issue was not a decisive factor. He agreed with Mr. Shahi that when the population of a territory was systematically denied the exercise of its rights, a question might be raised on changing its status. However, there was no tangible proof that the population of Kosovo had been denied the opportunity to exercise its rights. If the Committee concluded that it was not exercising them for other reasons, that was a different matter.

15. He was generally reluctant to pursue political matters, but as the question had been raised during the discussion on Kosovo, the Committee might do well to consider the impact of the London Contact Group. While he thought that the Committee should support the Gonzalez mission and hoped that it would be successful, he was somewhat concerned about the Contact Group's decisions, which, he understood, contained no condemnation of terrorism or guarantee of the territorial integrity of the country. Some representatives of the Albanian community in Kosovo who had in the past been in favour of Kosovo remaining within the borders of the Federal Republic of Yugoslavia had suddenly changed their position, announcing that they would accept nothing less than full independence. He wondered what had triggered that about-face, and was led to believe that for some, protecting the rights of the Albanian

population and ensuring respect for human rights were less important than other aspirations. The situation unfortunately resembled to some extent the one in 1991, when the crisis had deepened and some countries had hastened to recognize some parts of the former Yugoslavia.

16. The delegation of Yugoslavia had provided much useful information. He welcomed its appeal for dialogue with the Albanian population in Kosovo and the Government's commitment to renewing the good-offices mission to Kosovo. Had the many explanations given by the delegation of Yugoslavia been included in the report, criticism of the latter might not have been so sharp. It was worth mentioning that the issues associated with the health-care system, which had been dealt with during the good-offices mission, had now been resolved, although at the time they had been considered to be as acute as those concerning education today.

17. He trusted that the renewed dialogue would give the Committee a better idea of the current situation in Yugoslavia and help ensure fuller implementation of the Convention in the reporting State.

18. Mr. HODZA (Yugoslavia) said that his delegation looked forward to a fruitful dialogue with the Committee in the future.

19. The CHAIRMAN said that on the issue of self-determination, there were diverging views within the Committee. He thanked the delegation for the resumption of what he trusted would be a continuing dialogue with the Committee.

20. The delegation of Yugoslavia withdrew.

Initial and second periodic reports of Armenia (CERD/C/289/Add.2; HRI/CORE/1/Add.57)

21. At the invitation of the Chairman, Mr. Melik-Shahnazarian, Mr. Nazarian and Ms. Dedeyan (Armenia) took places at the Committee table.

22. Mr. MELIK-SHAHNAZARIAN (Armenia) said that a specially created group of representatives from a number of ministries as well as from non-governmental organizations (NGOs) active in defending the interests of national minorities in Armenia had participated in the preparation of Armenia's report.

23. Compliance with the provisions of the Convention was closely linked to the overall domestic political situation in the country as well as to the progress made in ensuring that generally recognized norms in the field of human rights were implemented in national legislation and made part of the life of the country.

24. The human rights situation in Armenia and the other independent States which had emerged in the post-Soviet era had much in common. The efforts of the Armenian Government to consolidate the framework for enjoyment of human rights had been impeded by such factors as the transition to a free-market economy, which had entailed a sharp decline in living standards, a severe energy crisis, the blockade imposed by some neighbouring States, and attempts

to draw Armenia into the Azerbaijan-Nagorny Karabakh conflict. Under those circumstances, it had been difficult to guarantee even the most basic human right, the right to life, and all citizens of Armenia, regardless of any differences, were equally affected.

25. As in other former republics of the Soviet Union, the legislation applied in the early years of independence - and still in force in some areas - had made little provision for the protection of human rights, particularly those of national minorities. Unlike other republics, however, the transition to democracy in Armenia had not involved violent upheavals or racial and ethnic conflicts. Armenia's stability was an achievement attributable to the ancient culture of the Armenian people and to their wisdom, tolerance and innate respect for the principles of justice, democracy and human rights, which had played a decisive role in ensuring a civilized and democratic outcome to the recent internal political crisis over differences of approach to a settlement of the Nagorny Karabakh question, culminating in the resignation of the former President, Mr. Levon Ter-Petrossian. The maintenance of order, the absence of police reinforcements in the capital, the peaceful preparations for the presidential elections on 16 March 1998, the mutual respect displayed by the 12 presidential candidates representing a broad spectrum of political parties and organizations, and the participation of hundreds of foreign observers and experts in the preparatory work by the Central Electoral Commission constituted further evidence of Armenian progress along the path of democratic change and set an example for other young democracies.

26. The fact that the Armenian people had suffered human rights violations on a massive scale throughout their history had developed their sense of justice and respect for members of other races and ethnic groups. During the genocide of 1915-1923, 1.5 million people had been killed and many more had sought refuge abroad. As a result, the Armenian diaspora accounted for more than twice the existing population of Armenia. On the occasion of the fiftieth anniversary of the Universal Declaration of Human Rights, Armenia planned to submit a draft resolution to the forthcoming session of the Commission on Human Rights to mark the fiftieth anniversary of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.

27. Aside from Ukraine and Belarus, which had enjoyed a special status within the Soviet Union, Armenia had been the first of the post-Soviet republics to accede to the basic human rights instruments. It had also concluded a cooperation agreement with the Centre for Human Rights and taken active measures to incorporate generally recognized human rights principles into domestic legislation, a project that involved awareness-building in the population and training of civil servants, legal personnel and the public authorities. With the assistance of the Centre for Human Rights, seminars had been held and manuals and human rights instruments had been published in the Armenian language. There were plans to publish all Armenian reports to human rights treaty bodies together with the committees' observations and recommendations with a view to involving wide sectors of the population, particularly NGOs, in subsequent action to ensure more effective compliance.

28. In the judicial and administrative reform process, intensive reference was being made to the provisions of international treaties, including the Convention. Article 6 of the 1995 Constitution stipulated that its norms were directly applicable.

29. During the period 1988-1990, hundreds of thousands of Armenians had been forced to flee from neighbouring Azerbaijan owing to ethnic persecution. Many refugees from Nagorny Karabakh had returned to their homes in the meantime but Armenia was still hosting some 72,000 displaced persons from Abkhazia. Refugees and displaced persons currently accounted for about 12 per cent of the population of Armenia, and almost 100,000 refugees were still homeless and unemployed. In addition, over 100,000 victims of the earthquake in Spitak in 1988 remained homeless.

30. Against that background, the situation of national minorities who were Armenian citizens gave grounds for optimism. The Union of Nationalities was an NGO representing some 15 ethnic associations. National minorities worked together in the Union to address educational, cultural, social and economic issues.

31. The Kurds had been a stable component (roughly 2 per cent) of the Armenian population for many decades and had always enjoyed a broad spectrum of human rights. The Kurdish language was taught in schools in the areas settled by Kurds. There was a Kurdish faculty in one of the universities and the Kurds had their own scientific establishments and radio and television programmes in the Kurdish language.

32. Presenting the Committee with a document showing the deadlines for reform of the country's administrative and legal system and the adoption of new legislation, he said that the first part of the draft Penal Code had been adopted in November 1997 and that the second part would be submitted to the National Assembly at the end of March 1998 for adoption about one month later. The last remaining piece of legislation on the implementation of judicial decisions was scheduled for adoption in August 1998.

33. The delegation was aware that certain relevant articles of the Labour Code, the Marriage and Family Code, the State Notaries Act, the Code of Penal Procedure, the draft Civil Code and the Citizenship of the Republic of Armenia Act had not been reflected in the report. The Committee's observations and those of relevant NGOs would be of assistance in preparing the next report. Account would also be taken of compliance with the provisions of the European Framework Convention for the Protection of National Minorities, to which Armenia had acceded in July 1997.

34. Mr. VALENCIA RODRÍGUEZ (Country Rapporteur) said that the Armenian people had survived many misfortunes thanks to its resilience and the preservation of its national identity. He noted that Armenia's difficulties had continued in recent years with the 1988 earthquake, armed conflicts, the energy crisis and a sharp decline in national income. According to the World Bank, 90 per cent of the population were living below the poverty threshold.

35. With reference to a communication (No. 83/12) of 4 March 1998 addressed to the Committee by the Permanent Representative of Azerbaijan to the United Nations Office at Geneva concerning the situation in Nagorny Karabakh and the associated political tensions between Azerbaijan and Armenia, he said that the Committee's jurisdiction in that regard was restricted by article 9 of the Convention. He expressed concern, however, at repeated allegations in the communication that Armenia was pursuing a policy of "ethnic cleansing" against nationals of Azerbaijan. He would inform the Ambassador of Azerbaijan that the appropriate procedure for having such allegations considered was that provided for under article 11 of the Convention. The same applied to allegations by the Government of Armenia regarding discrimination against Armenians by Azerbaijan.

36. The publication Critique alleged that in 1996 the conduct of the presidential elections and what it described as "government abuses", directed in particular against the opposition, had led to a significant deterioration in the human rights situation in Armenia. The electoral process had also been criticized by the Organization for Security and Cooperation in Europe, and the European Parliament had adopted a resolution calling for new elections. In a report published in May 1997, the Parliamentary Assembly of the Council of Europe had stated that Armenia's judicial system was incompatible with Council standards for human rights protection and recommended that the crisis should be resolved in such a way as to ensure pluralism and give meaning to the institutions of parliamentary democracy already established.

37. According to the report, there were some 85,000 ethnic Azeris living in Armenia but the Ambassador of Azerbaijan claimed that, as a result of the Government's policy of expulsion, not a single member of the previous Azeri community of some half a million persons remained. He asked the delegation to comment on those figures and on allegations of discrimination against the Azeri minority.

38. With reference to paragraph 58 of the report, the Committee wished to know more about the situation of all foreigners resident in the country.

39. He asked for further information regarding the Union of Nationalities and its specific achievements in addressing the problems of minorities.

40. Welcoming the signing by Armenia of the Commonwealth of Independent States (CIS) Agreement on questions relating to the restoration of the rights of deported persons, national minorities and peoples and the Convention on the safeguarding of the rights of members of national minorities, he asked for information on the results of the implementation of those instruments.

41. What measures had the Government of Armenia adopted with a view to preventing racial discrimination in the context of the inflow of large numbers of refugees from Nagorny Karabakh and Abkhazia and the departure of some 168,000 ethnic Azeris?

42. Paragraph 14 claimed that national minorities had always enjoyed the same freedoms as Armenians. To which freedoms did that refer?

43. Noting that article 43 of the Constitution stipulated that the rights and freedoms set forth in the Constitution were not exhaustive and should not be construed as negating or diminishing other universally accepted human and civil rights, he drew attention to the pitfalls involved in interpreting the phrase "other universally accepted human and civil rights" and asked whether secondary legal norms had been developed to give effective application to the constitutional provisions.

44. He noted with satisfaction that international treaties took precedence over domestic laws and that human rights provisions could be invoked in the courts. Had any such provisions, not necessarily of the Convention, been invoked in practice?

45. The wording of article 69 of the existing Penal Code was not entirely consistent with the terms of article 4 of the Convention. Given that it was not considered advisable to introduce a special category of offences with a racial motivation (paragraph 83) and that the new Penal Code had not yet been adopted, he recommended that the Government should take steps to bring it more fully into line with article 4. When was the Penal Code scheduled to enter into force?

46. The report referred to various articles of the Constitution which were of relevance to article 5 of the Convention. What legal norms had been adopted to give effect to the constitutional provisions and how had they been applied in practice?

47. Paragraph 95 referred to the "continued low level of protection of human rights", a phrase which required further explanation and from which he understood that torture and other forms of cruel and degrading treatment continued to occur. He recommended that judges and, in particular, law enforcement officers should be given special training in human rights and the obligations deriving from the Convention.

48. Referring to paragraph 98, he asked whether members of national minorities were entitled to participate in referenda.

49. With regard to paragraph 104 concerning freedom of movement and choice of residence, what was the position of aliens whose countries of origin had not concluded an international treaty with Armenia, or if an existing treaty failed to mention the rights in question? According to paragraph 106, foreign citizens could be prohibited from leaving Armenia if criminal proceedings had been instituted against them, if they had been convicted or if they were serving a sentence. Did the same prohibition apply to Armenian citizens?

50. He asked for an explanation of the statement in paragraph 109 that Armenians acquired citizenship through a simplified procedure. He assumed it did not mean that they were stateless until they completed the procedure. In the same context, he noted that Armenia did not accept dual nationality despite a growing trend towards acceptance of such status.

51. He asked for more information on the exceptions to article 9 of the Civil Code, according to which the rights and duties of aliens were similar to those of citizens. For example, paragraph 110 of the report stated that

aliens were not entitled to own land in Armenia. He could understand if that provision were limited to border areas, especially in the light of present tensions in the region, but such a general prohibition could harm the country's efforts to promote foreign investment. What was the nature and scope of the exceptions to the Privatization Act that applied specifically to aliens? While it was also understandable that aliens were not entitled to join political parties, he wished to know why certain citizens working for the Government were prohibited from becoming members of socio-political organizations (paragraph 139). Was the idea to ensure the independence and impartiality of the electoral process? What had been the Government's experience in that regard?

52. He noted the difficulties encountered in educational provision and welcomed the objectives of education strategy described in paragraph 181, whose effective implementation would depend on internal peace and adequate budgetary allocations. Paragraph 176 referred to the education of refugees, most of whom were from Azerbaijan. The official language of instruction and of the Administration was Armenian, which in practice made it even harder for refugees to engage in professional or civic activities. The Government should consider offering instruction and training not only to refugees, but also to members of national minorities, in their main languages.

53. He asked for the texts, and dates of entry into force, of the legislation on marriage and the family, the right to peaceful assembly, settlement of collective labour disputes, the new Labour Code, new Employment Act and international instruments ratified, particularly in the field of human rights.

54. According to paragraph 84, Armenia did not compile statistics on racially motivated offences, but it had the obligation to do so under article 6 of the Convention. The Committee was especially interested in knowing about the sweeping reforms of the judicial system, referred to in paragraph 198, particularly in view of the report of the Parliamentary Assembly of the Council of Europe. Useful information had been provided regarding article 7 and further measures along the lines described were recommended. Reports of inadequate instruction in the principal minority languages gave cause for concern.

55. Mr. de GOUTTES said that the report, in conjunction with the core document (HRI/CORE/1/Add.57), contained interesting information, especially regarding article 5, the demographic composition of the population and the protection afforded to minorities who, although not numerous in Armenia, benefited from membership of the Union of Nationalities, on which he would like more information. The provisions of the Penal Code seemed to meet the requirements of article 4, except for the apparent lack of penal sanctions for the refusal to provide goods, services or sales on racial grounds.

56. Could consideration be given to compiling legal statistics on racially motivated offences and including them in the next report, as the Committee had recommended? What progress had been made in carrying out the sweeping reforms of the judicial system referred to in paragraph 198? He would also like more comprehensive information on the Convention on the safeguarding of the rights

of members of national minorities of the Commonwealth of Independent States (CIS) and on the Human Rights Commission charged with monitoring its implementation (paragraphs 74-80). Was the prohibition against foreign citizens becoming members of socio-political organizations in conformity with article 5 (c) of the Convention?

57. Mr. NOBEL asked about the statement in paragraph 30 that, although Armenian judicial and administrative practice permitted reference to the provisions of the human rights conventions and other relevant international instruments, the legal application of those provisions depended upon their prior incorporation into domestic legislation. What was the purpose of referring to a body of international law which had not been thus incorporated? Provisions of international law could be incorporated into domestic legislation either by transposing them verbatim into the latter, whereby they would acquire full validity, or by transferring merely the substance of the international law to national legislation. Was he correct in assuming that Armenian legislators preferred the latter method?

58. Mr. SHERIFIS asked for a list of the human rights instruments to which Armenia was a party. Was the Government considering making the declaration under article 14? Had it initiated procedures for accepting the amendments to article 8, paragraph 6? He urged the State party to do so and also to consider establishing a national commission as envisaged by General Recommendation XVII. The ongoing project to organize seminars, train specialists and disseminate human rights literature (paragraph 201) was a welcome development, but he would like more information. What measures were being taken to implement the second part of article 7, namely to propagate the principles and objectives of the Charter, the human rights declarations and the Convention?

59. Mrs. SADIQ ALI asked about the Government's "radical economic reform programme", which according to paragraph 26 of the core document involved the privatization of agricultural land and small industrial enterprises. Did the privatization of agricultural land mean land reform? If so, how many people had benefited? The claim of 98.9 per cent literacy (paragraph 29 of the core document) seemed to contradict the statement in the report that the reorganization of the educational system was lagging somewhat behind the pace of reform in other sectors, on account of the limited availability of funds and inefficient organization of the administrative system. Had the literacy rate gone down, and if so, to what extent? What educational reforms were envisaged? Was the administrative system being streamlined to make the reform a success?

60. Mr. RECHETOV welcomed the initiation of Armenia's dialogue with the Committee. Referring to paragraph 84 of the report, he pointed out that since, under the new Penal Code, those guilty of propaganda or agitation aimed at inciting racial or ethnic hatred or discord would be punished, that should enable the State Party to provide statistics on racially motivated offences.

61. Religious organizations appeared to have complete freedom in their activities. There were some communities and sects that were not even registered, although some of them were viewed as dangerous in the Russian Federation and Japan, where attempts were made to prevent them from

propagating their beliefs. It was not clear from the report whether religious organizations really did have to be registered or whether legislative provisions were simply interpreted very liberally in practice.

62. The prohibition against foreign nationals belonging to socio-political organizations was quite broad in scope. He could understand its applicability to political parties, but he doubted whether foreigners could actually be prevented from joining such organizations as those devoted to purely leisure activities.

63. The CHAIRMAN suggested that the delegation should reply only to questions concerning human rights in Armenia and should not address the allegations contained in the letter from the Permanent Mission of Azerbaijan to which Mr. Valencia Rodriguez had referred.

64. The delegation of Armenia withdrew.

The meeting was suspended at 5.05 p.m. and resumed at 5.25 p.m.

MEETING WITH THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

65. Mrs. ROBINSON (United Nations High Commissioner for Human Rights), said that the Committee, the oldest of the human rights treaty monitoring bodies, had a good record in its dialogue with Member States. She welcomed the opportunity to meet Committee members in the context of their work and to hear their concerns, comments or questions at that early stage of her mandate. She was particularly interested in their insights on how the reporting procedures were working and the manner in which State party reports were considered.

66. Mr. SHERIFIS said the Committee looked forward to cooperating closely with the High Commissioner within its sphere of competence and to standing by her in her campaign for the advancement of human rights worldwide. There were many parts of the world where discrimination was still rampant, human rights were denied and whole peoples were held in subjection. The Committee had endeavoured to play its part by expanding its potential with the introduction of the review procedure and the early warning and urgent procedure and its attempts to achieve greater efficiency in dealing with its increased workload. However, it needed more Secretariat support, and would rely on the new Office of the High Commissioner in order to carry out its obligations under the Convention more effectively. It warmly appreciated the active cooperation of the Chief ad interim of the Support Services Branch, but she had to divide her time into servicing many other committees as well. Frequent rotation of persons acting as secretary of the Committee and intern assistants was not conducive to continuity. Aware though it was of diminishing resources, the Committee hoped the High Commissioner would find ways to solve those important problems.

67. The Committee would welcome the High Commissioner's support for the proposal to hold its first annual session in New York, which would improve dialogue with small developing nations whose Permanent Missions were located there.

68. The High Commissioner was in a position to help achieve universal ratification of the Convention and work with the Committee to publicize the principles and objectives of the Convention around the world.

69. Mr. RECHETOV applauded the High Commissioner's statement in an interview with the British Broadcasting Corporation (BBC) on how she wanted to increase recognition of human rights and improve contact with Governments around the world.

70. It was a sad fact that Governments took most interest in human rights bodies from which they could derive most political capital, such as the Commission on Human Rights, to the detriment of the Committee on the Elimination of Racial Discrimination and, often, their reporting obligations thereto.

71. The Conference that was taking place in London to consider certain Eastern European countries' application for membership of the European Union showed the prevailing bias regarding human rights records that were based on information from the largely Western-dominated press and from high-profile bodies like the Commission on Human Rights. It often happened that countries escaped criticism for their human rights records in politically oriented human rights bodies, which were made up of State representatives, but were severely censured in non-political bodies made up of independent experts. The High Commissioner should therefore actively work towards ensuring that human rights issues were divorced from politics so that a more objective picture could be painted of the situation of human rights in the territories of States parties.

72. Mr. GARVALOV said that the Committee's wealth of experience in identifying and combating racial and ethnic discrimination, and the expertise of its members, could be of great help to the High Commissioner in her work. Its concluding observations and decisions, particularly those under the agenda item on prevention of discrimination, including early warning and urgent action procedures, merited more specific attention by the Office of the High Commissioner and the Third Committee of the General Assembly. The Committee had been the first body to sound the warning that problems were brewing in Kosovo, Rwanda and Burundi and to suggest certain action. The Committee, in the light of its specialized expertise, should not be kept on the sidelines of world conferences that dealt with its particular area of competence.

73. The Committee and other human rights treaty bodies needed to be given an opportunity to discuss their work and role and ways of improving their performance and of helping to reform and restructure United Nations human rights activities. He reiterated his own suggestion that a United Nations-sponsored conference, seminar or workshop should be held to give treaty bodies such an opportunity.

74. The universality of international human rights instruments was meaningless if States parties failed to comply with them. There was little the Committee or other treaty bodies could do to force States to comply. The Office of the High Commissioner should, therefore, consider how best to promote compliance with international human rights instruments.

75. He commended the work of the Chief ad interim of the Support Services Branch, the Secretary of the Committee and the Secretariat as a whole.

76. Mr. SHAHI congratulated the High Commissioner on her election. She had been hailed by the Secretary-General of the United Nations as an extraordinary leader who would bring dynamism, credibility and leadership to the post. Expectations were thus high that she would be able to ensure more effective protection and promotion of human rights, and prevent massive violations of those rights, including genocide.

77. With hindsight, it was clear that the genocide in Bosnia and Herzegovina and Rwanda could have been halted if the United Nations had committed sufficient troops with a peace enforcement mandate to intervene to halt the massacres. The United Nations needed a rapid reaction force that could be deployed promptly once early warnings were issued. That question was becoming urgent in the light of the warning of the United States of America that genocide was brewing once again in Rwanda.

78. Mr. de GOUTTES, welcoming the first official contact between the High Commissioner and the Committee, shared the view of other Committee members that stability and increased resources were needed to facilitate the work of the Secretariat staff responsible for servicing the Committee, and that it was necessary to safeguard the specificity of reports under each Convention.

79. Among the initiatives taken by the Committee for which the High Commissioner's support would be welcome were its procedures for early warning and urgent action. The measures had proved effective and had been approved at the World Conference on Human Rights and in the General Assembly, although some States continued to have reservations.

80. The Committee's procedures for reviewing implementation of the Convention in States parties whose reports were seriously overdue had also been effective and had been welcomed by the Commission on Human Rights and the General Assembly. Some States had expressed reservations as to whether the procedure was provided for in the Convention.

81. The Committee had also institutionalized exchanges and coordination with other human rights treaty bodies, and universal and regional organizations that dealt with the question of racial discrimination, thus improving the efficiency of its work. He requested the assistance of the High Commissioner in organizing those exchanges and coordinating meetings with members of other treaty bodies and expressed the hope that meetings with the High Commissioner would continue.

82. Mr. YUTZIS said that the United Nations financial difficulties coincided with a growth in the Committee's workload due to an increase in the number of States parties to the Convention and, sadly, an increase in racial discrimination. The Committee was facing practical problems in terms of the translation of country reports and relevant documents, particularly into French and Spanish. He asked the High Commissioner to try to rectify the situation.

83. He applauded the work of the acting Chief of the Support Services Branch, but urged the Office to ensure continuity in the staff assigned to deal with the work of the Committee. For practical reasons the Committee's first annual session should be held in New York.

84. The Committee was not always able to do as much as it wanted in certain areas and was a long way from being as effective as it should be. However, that did not detract from the high level of professionalism and expertise in the Committee. It should therefore be called on more often, inter alia by other human rights committees, to help prevent racial discrimination or to give its expert opinion and advice on situations within its mandate.

85. Ms. McDOUGALL said that the world was at a critical juncture, a time when ethnic conflict was marring the course of global human development. Joint efforts were needed to find more effective ways of creating conditions for racial equality worldwide.

86. Presumably, the Committee would be called on to play a central role in the World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance which would be held some time before 2001. She asked what vision the High Commissioner had for the Conference and how the Committee could contribute.

87. Mrs. ROBINSON (High Commissioner for Human Rights) thanked the Committee for its support and encouragement. She was aware how much she needed to learn but her meeting with the Committee had given her a better understanding of its work and of the commitment of its members to their task.

88. Concerns about consistency of staffing and the working of treaty bodies had already been raised at meetings with the chairpersons of human rights treaty bodies. Restructuring had now been completed and should provide a more focused and proactive approach to servicing the committees. She was aware of her great responsibility to provide the best possible support for human rights mechanisms and treaty bodies. That responsibility was brought into sharp focus by the fiftieth anniversary of the Universal Declaration of Human Rights.

89. The level of expertise in those bodies was in no doubt. The Committee's comments were duly noted. The general comments and observations of the Committee, and specific aspects of its work, were regularly brought up during daily morning meetings with the senior staff of the Support Services Branch because the Office followed the work of the treaty bodies with interest. That the Commission on Human Rights, under its incoming Chairman, might be initiating a review of the work and role of the treaty bodies and monitoring mechanisms might be a useful additional focus for debate and draw wider attention to the work and expertise of the treaty bodies, including those of the Committee.

90. She intended to be very supportive of the Committee's initiative on early warning and urgent procedures and their important role. Every effort would be made to ensure that a balanced approach was taken to critical situations in various countries, in full awareness of prevailing circumstances

on the ground. The complex nature of such situations, which, though occurring within States, had global implications, called for the special expertise of bodies like the Committee.

91. Questions related to the proposed World Conference and indeed the politicization of human rights in the Commission on Human Rights and elsewhere were matters to be considered by Member States themselves. She awaited their commitment to the holding of the Conference with keen interest.

92. The issues raised at the Seminar on the Role of the Internet with regard to the Provisions of the International Convention on the Elimination of All Forms of Racial Discrimination underscored the value of the Committee's work.

93. The CHAIRMAN thanked the High Commissioner for her participation in the Committee's meeting.

The meeting rose at 6.15 p.m.

UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1263
6 April 1998

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1263rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 13 March 1998, at 10 a.m.

Chairman: Mr. SHERIFIS

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Initial and second periodic reports of Armenia (continued)

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (continued)

Consideration of the situation in Rwanda

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.98-15554 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Initial and second periodic reports of Armenia (CERD/C/289/Add.2; HRI/CORE/1/Add.57) (continued)

1. At the invitation of the Chairman, the delegation of Armenia resumed its places at the Committee table.

2. Mr. SHAHI thanked the Republic of Armenia for having submitted to the Committee a particularly complete report on its implementation of the Convention. He welcomed Mr. Valencia Rodriguez's very detailed analysis which he hoped the Government would take into account, along with the Committee's concluding observations.

3. Referring to paragraph 37 of the report (CERD/C/281/Add.2), he drew the attention of the delegation to the fact that article 69 of the section of the Penal Code prohibiting "propaganda or agitation intended to incite to racial or national enmity or dissension" was inadequate to guarantee implementation of the Convention, since under that instrument States parties were called upon to prohibit the dissemination of racist ideas, whether or not such ideas had the effect of inciting racial discrimination.

4. With regard to the implementation of article 5, paragraph 83 of the report stated that "in the present circumstances, it is not considered advisable to introduce a special category of offences with a racial motivation requiring the introduction of harsher penalties than other similar infringements of the law". On the contrary, the Government should use the adoption of the new Penal Code to incorporate all the provisions of the Convention into domestic legislation, by indicating, for example, the penalties laid down for the dissemination of ideas leading to racial discrimination or theories affirming racial superiority. Contrary to the Government's interpretation (para. 81 (a)), the provisions of article 4 of the Convention were not aimed at restricting the right to freedom of opinion as such but at prohibiting the expression of racist opinions, a subtle distinction that could usefully be reflected in the new Penal Code.

5. Concerning the implementation of article 4, paragraph 81 also stated that "propaganda or agitation intended to incite to racial or national enmity or dissension ... shall be punishable by ... exile for a period of two to five years". He wished to know more about the places of exile, and particularly their location.

6. Mr. GARVALOV commended Armenia for having submitted a particularly substantive report, and on time. He noted with interest that the report as well as the representatives of Armenia had used three expressions, namely, "ethnic minorities", "ethnic groups", and "nationalities". As he knew that some countries considered a nationality to be a group of persons who were part of the nation, sometimes for generations, whereas others thought of them as groups coming from neighbouring countries, he wondered whether the distinction made was one of substance.

7. Article 7 of the Convention was intended not only to commit States parties to adopt effective measures to combat racial discrimination in the fields of teaching, education, culture and information, but also to combat prejudices which led to racial discrimination and to promote understanding, tolerance and friendship among nations and racial or ethnic groups. It would be useful for the Government to provide more comprehensive information in its next periodic report on that aspect of the specific implementation of article 7.

8. Mr. MELIK-SHAHNAZARIAN (Armenia), Head of the Department of International Organizations in the Ministry of Foreign Affairs, replying to the questions put to him regarding a letter from Azerbaijan, invited the members of the Committee to refer to the letter, distributed as an official document of the forty-ninth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1997/47), in which the Republic of Armenia refuted the false information disseminated by the Government of Azerbaijan. It also contained replies to a number of the points raised by Mr. Valencia Rodriguez.

9. Referring to the allegations of ethnic cleansing directed against his country, he presented an extensive historical account of the conflictual relations between Armenia and Azerbaijan. Azerbaijan had unilaterally put an end to an attempted negotiated settlement of the territorial and other differences between the two countries and had seized 58 per cent of the territory of Upper Karabagh. It had driven the Armenians out by means of major military operations, including bombardments, with the help of the Soviet Union. Following the hostilities, 168,000 Azerbaijanis had left Armenia. Despite Armenia's efforts to reach a settlement of the question by civilized means, the entire Armenian population had been expelled without consideration or compensation from the areas under Azerbaijani control. The Azerbaijanis who had left Armenia, on the other hand, had done so voluntarily after receiving compensation and selling their real property.

10. The contradiction between the figures provided in paragraphs 11 and 18 of the report on the number of Azerbaijanis who had left Armenia and those who had been included in the 1989 census there was more apparent than real, since the figures were in fact complementary, and simply reflected the fact that the Azerbaijanis had left Armenia gradually over a two-year period.

11. The Azerbaijanis in Armenia were incomparably better treated than the Armenians living in Azerbaijan. The Armenian press did not single out the Azerbaijanis for criticism, whereas the Azerbaijani media systematically denigrated the Armenian minority in their country. They accused Armenia in particular of having seized their territory and incited the population to reconquer it by force. Similarly, books inciting hatred of Armenia were published in Azerbaijan. On the subject of Azerbaijani territorial claims, he noted that Armenia had existed for some 4,000 years, while Azerbaijan had been created only in 1918.

12. As for the violation of the fundamental rights of members of the Armenian opposition, he confirmed the information contained in paragraph 95 of the report that torture and other cruel or degrading treatment was still practised by investigators. That was because the Republic of Armenia was a

young State whose judicial system was relatively new, and it would need more time to change the attitudes and behaviour of certain law-enforcement officers.

13. The political power struggle had assumed some regrettable forms, which had alarmed the European Parliament. Some opposition leaders had been found guilty of offences under the ordinary law, such as the illegal possession of weapons. However, as part of the policy of appeasement, the President of the Republic had announced that those who had been released could stand as candidates in the forthcoming elections. The representatives of all political persuasions were also eligible. The Committee for the Defence of Political Prisoners had recently stated that there were no political prisoners in Armenian prisons. The political life of Armenia was thus entering a new era.

14. In reply to a question on the low number of foreigners in Armenia, he said the foreign population was composed largely of several hundred students and representatives of non-governmental organizations (NGOs), groups which tended not to settle permanently. If foreigners only rarely settled in Armenia, it was because the standard of living was too modest to make it attractive for them. That would probably change once the country attained the desired level of economic development. However, it was facing a growing influx of illegal immigrants from Africa and Arab countries who were trying to use it as a point of entry into Turkey and Europe.

15. With regard to the national communities, he drew attention to the information given in paragraphs 20 and 21 of the report, stressing that many minorities - Assyrians, Greeks, Kurds, Georgians, Jews, Germans, Poles and Russians, or about 4 per cent of the total population - had formed intercommunity associations and participated actively in social and cultural activities.

16. He confirmed what he had said on 12 March about the complete freedom enjoyed by those communities which were in complete harmony with the Government. He cited as an example the Kurds, several tens of thousands of whom lived in the former republics of the Soviet Union; they had created an international organization in Armenia, the Kurdish Union, which had juridical personality. Armenia was the only country in which the Kurds could speak, write and study in their own language up to the university level. If Armenia could not always meet the needs of its minorities, it was because, since the collapse of the Soviet Union, there no longer existed a central source of financing. However, the protection of the various national bodies of Armenia was at present the subject of a draft law.

17. The agreement on questions relating to the restoration of the rights of deported persons, national minorities and peoples, referred to in paragraph 74 of the report, required explanation. It was intended to replace the legislation enacted in the Soviet Union during perestroika, aimed at facilitating the return of such groups and peoples to their native lands - Georgia, Armenia, Chechnya, Crimea and so forth - and in that connection he cited the case of the leader of an Armenian humanitarian organization who had been stripped of his Soviet citizenship in 1989 and deported to Ethiopia and who, thanks to that legislation, had been able to go back to Armenia, recover all his rights and even stand as a candidate for the presidency.

18. The term "national minorities" itself had not appeared very precise to the Committee, with good reason. During the Soviet era, the passport of every Soviet citizen mentioned his citizenship, which was Soviet, as well as his nationality of origin. That was why the term was generally understood as referring to the population of an ethnic group different from one's own. As Mr. Garvalov had rightly remarked, the next report should clearly specify the meaning of words that were still being used with their former connotation.

19. Supplementing the information that had been provided on national minorities, he said that State officials were obliged by law to help those who requested assistance in defending their rights and interests, and to inform them of the obligations by which they were bound and what the consequences would be if they failed to respect them.

20. Generally speaking, the principle of non-discrimination had to be respected in all aspects of life, and it was being increasingly incorporated into the texts enacted or about to be enacted, which were thus gradually fleshing out the principles proclaimed in articles 15 and 43 of the Constitution. That had already been done with the Labour Code, the Penal Code, the draft code of penal procedure, the Civil Code and the Medical Assistance Code. That would be apparent to the Committee once it saw the text of the three draft laws which the High Commissioner for Human Rights had just received on the courts, the Prosecutor's Office and the enforced execution of court decisions, drafts on which members would be invited to comment. They would see that even if, as was apparent from paragraphs 29 and 30 of the report, international instruments were not automatically incorporated into the Armenian legal system, it was possible to refer to them, and they were taken into account, with the help of the advisory services of the High Commissioner for Human Rights, in the draft legislation. Furthermore, so that that legislation would not remain a dead letter, seminars were being organized for judges and police and prison authorities with a view to bringing about a gradual change in their attitudes. Human rights would become a discipline to be studied, but that would of course take several years. In reply to a question on the new Penal Code, he said that it did not contain any provisions penalizing racially motivated crimes because the legislature did not wish to effect a sort of segregation that would put persons belonging to minorities into a separate category. If the Committee insisted, such a provision could perhaps be added to the Penal Code, but he was not in favour of the idea.

21. The issue of dual nationality did not seem very clear to the members of the Committee, nor was it clear to the Armenians themselves. In fact, an ethnic Armenian was considered in Armenia to be anyone who had at least one Armenian parent. Anyone meeting that requirement could obtain citizenship through a simplified procedure. The ultimate aim was to have all Diaspora Armenians end up with an Armenian passport. Some bilateral agreements had already been signed to that effect.

22. No NGO had alleged any violation whatsoever of the rights of any minority, whether Azerbaijani or other. All citizens participated on an equal footing in the nation's political life, in referendums as in elections; their freedom of movement, and that of foreigners, was unlimited, except in the case of persons being prosecuted; everyone had the right to buy land and to contribute to the capital of privatized enterprises although quite naturally a

national preference had been established, giving priority to Armenians. In that regard, it was also understandable that only Armenians had the right to belong to a political party. As for the right to education, it had not yet been strengthened by being provided free of charge, as the State was unable to finance 100 per cent of the cost of education and had therefore to turn to private schools to some extent, but that would not always be the case. As a finishing touch, the creation of a human rights commission was under consideration.

23. Armenia was still an embryonic State. The Committee would be kept informed of all laws being drafted and could be assured that its comments would be heeded.

24. Mr. YUTZIS said he hoped that, when it submitted its next periodic report, or even before, Armenia would provide specific figures and statistical data that would enable Committee members to see to what extent, compared to the majority population, members of minorities could exercise the rights set out in article 5 of the Convention, and to what extent they were literate, had access to education up to the higher level and to health care programmes.

25. Paragraphs 127, 132 and 134 also called for clarification. Paragraph 127 gave a list of 13 officially registered religious faiths, but left out Islam. Given the importance of the relationship between national culture and spirituality in Armenia, that was cause for concern, especially since Muslims were not mentioned among the communities operating without being registered. Paragraphs 132 and 134 reported on the registration practice, which conferred juridical personality on the registered organization, thereby providing it with certain privileges. That information led to the question as to the status of the Muslim faith and what the disadvantages might be for a religious group that was not registered.

26. Mr. SHAHNAZARIAN (Armenia) said he too was surprised that the Muslim community was not mentioned in paragraph 127 of the report. Apparently that was simply an oversight and the Government would clarify the matter in its next report. There were mosques in Armenia and, generally speaking, the population was very tolerant of various religions, and religious communities, once they had been registered and acquired the status of a juridical person, could inter alia open schools.

27. Mr. SHAHI, referring to article 69 of the Penal Code (para. 81), which provided that propaganda or agitation intended to incite to racial or national enmity or dissension was punishable by six months' to three years' imprisonment or two to five years' exile, asked where the places of exile were.

28. Mr. DIACONU, noting that the representative of Armenia had mentioned in his replies certain allegations made against his country in the letter from the Republic of Azerbaijan, as well as situations which existed or had existed in Azerbaijan or Upper Karabagh, emphasized that those references should be disregarded by the Committee in the context of its consideration of the report of Armenia. The discussion should not set a precedent for the Committee's future activities.

29. Mr. SHAHNAZARIAN (Armenia), replying to Mr. Shahi, said that the provisions of article 69 of the Penal Code on exile no longer applied. They went back to the Soviet era and had inadvertently been reproduced verbatim by the authors of the report. A new Penal Code was being enacted.

30. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) thanked the representative of Armenia for having presented a detailed, exhaustive report that was in conformity with the Committee's guidelines. He also thanked him for his replies and was gratified by the fruitful dialogue between the Committee and the delegation. Armenia was going through a difficult time and he hoped it would overcome its problems and continue along the path to democracy.

31. He welcomed the commitments the Government had assumed under the Convention, particularly with regard to the principle of equal treatment before the law for Armenians and others. Other initiatives should be taken, particularly in implementation of articles 4, 5 and 6.

32. Armenia's legal structures were being established. The Committee encouraged Armenia to pursue its efforts in that regard in order to give effect to the provisions of the Convention, particularly through the Penal Code, the Labour Code, the Marriage and Family Code and the provisions on the settlement of collective labour disputes. He also asked the Government to keep him apprised of all cases of racial discrimination brought before the courts. The Committee noted that the international instruments to which Armenia was a party could be invoked before the courts and had been incorporated into domestic law.

33. However, the Committee would appreciate more information in the next periodic report on the rights to which foreigners were not entitled and on the possible consequences of privatization.

34. Measures should be taken to protect the rights of ethnic Armenians who returned to their country, particularly in the fields of employment, health and work.

35. The Committee commended the steps that had been taken under article 7 and recommended that the Government should intensify measures aimed at promoting tolerance and respect for the Charter of the United Nations and the Convention. He suggested that the Government should make the declaration under article 14, recognizing the Committee's competence to receive complaints from individuals and approve the amendment to article 8 of the Convention. He hoped that the next report would provide additional information on the proposed national human rights commission.

36. Mr. NAZARIAN (Armenia), Permanent Representative to the United Nations Office at Geneva, paid tribute to the efforts made by the members of the Committee, the Country Rapporteur and the Chairman of the Committee, and assured them that their questions and recommendations would be brought to the attention of the competent bodies. Armenia intended to do everything possible to implement the provisions of all human rights instruments and the Convention in particular, guided by the Committee's observations.

37. The CHAIRMAN said the Committee had thereby concluded its consideration of the second periodic report of Armenia.

38. The delegation of Armenia withdrew.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 6) (continued)

Consideration of the situation in Rwanda

39. Mr. BANTON (Country Rapporteur for Rwanda) said that in 1996, the Committee had adopted a statement (A/51/18, p. 9) in which it emphasized the importance of the United Nations Assistance Mission for Rwanda and expressed concern over delays in bringing accused persons to justice and over continuing incitement to ethnic hatred. The Committee had recommended the convening of a constitutional conference and offered its cooperation in that event.

40. In 1997, the Committee had welcomed the attendance of a State delegation from Rwanda at its session and the information it furnished. The State representative had observed that the Rwandan people and Government were more concerned than any foreigner about national reconciliation, which could come about only if the country had the means to rebuild the social and economic foundations of society. In the two or three years since the forming of a Government of national unity, the international community had provided only minimal resources to enable it to translate its vision for a new Rwanda into reality (CERD/C/SR.1212, para. 28).

41. In the circumstances, the Committee should express its regret that the Government of Rwanda had not accepted its invitation to attend the present session. Events in Rwanda were still closely tied to those taking place in the Democratic Republic of the Congo. The Committee should keep Rwanda on the list of States for consideration under the prevention procedure, as it had done at the present session. Since the Committee needed additional information and Rwanda had not sent a delegation to the session, he suggested that the situation in Rwanda should be considered at the Committee's fifty-fourth session in March 1999.

42. Mr. de GOUTTES said he agreed with Mr. Banton's proposals, and particularly that the Committee should keep the situation in Rwanda under consideration under agenda item 6. However, the Committee's fifty-fourth session seemed somewhat far away. The Committee should recall the main points to which it had drawn the attention of the Government of Rwanda: first of all, the need to put an end to the impunity of those responsible for ethnic murders; to find a solution to the problem of the detention of many persons without trial in particularly harsh conditions; to give priority to the restructuring of the judiciary; to urge the Government to cooperate with the International Criminal Tribunal for Rwanda; and to insist on human rights training for law enforcement officers, who should be taught tolerance and inter-ethnic understanding.

43. Mr. SHAHI agreed with Mr. Banton that the situation in Rwanda should be kept under consideration under agenda item 6. Like Mr. de Gouttes, he felt that the Committee's fifty-fourth session would be too late.

44. The fifty-third session would be more appropriate, given the very real risk of another genocide in Rwanda. A rapid action force should be created for the prevention of tragic conflicts.

45. The Committee certainly needed information on the current situation in Rwanda before taking any decision.

46. Ms. McDOUGALL said that Rwanda had experienced the worst massive violations of human rights in recent times. It was a very poor country which was redoubling its efforts to achieve national reconstruction and reconciliation. The Committee should not wait until its fifty-fourth session before dealing with Rwanda; additional information should be requested on the current situation and it should be considered at the next session.

47. Justice must be done in Rwanda and must be seen to be done according to fair and impartial procedures. It was also important to combat impunity. The prison population exceeded 100,000, almost all of whom were Hutus; the trials that had begun were extremely slow; and resources were lacking to remedy the situation. The Committee should ask the High Commissioner for Human Rights to make greater efforts to assist Rwanda, both in the field and through its advisory services. It should also ask Rwanda to cooperate more with the International Criminal Tribunal. Furthermore, it should call on Rwanda to forgo executions of persons, most of them Hutus, who had been sentenced to death, as that would exacerbate ethnic tensions. She personally was opposed to the death penalty, which she considered to be a violation of human rights.

48. With regard to impunity, Rwanda should be supportive of the mission of the Secretary-General's investigative team currently in the Democratic Republic of the Congo. Moreover, the Committee should consider the measures that had been taken under article 7 of the Convention.

49. The media and the radio had played a central role in the genocide. What steps could be taken to use those media in a positive manner? Could they not be used to enhance the understanding of the importance of the concept of responsibility, and to publicize the proceedings under way before the International Criminal Tribunal?

50. She was following closely the extremely serious events that were beginning to occur in the north-west of Rwanda. The Government should be called upon to take measures to reduce tensions, put an end to the massacres and develop institutions of governance that would include all ethnic groups.

51. Mr. DIACONU said the approach suggested by Mr. de Gouttes was excellent, as long as the various points he had enumerated were placed in the context of the implementation of the Convention. The Committee should not step outside its field of competence. The two aspects stressed by Ms. McDougall were also very important: the launching of another genocide in the region should be avoided at all costs, and a return to normal encouraged by helping to restore institutions.

52. He had no problem with the Committee reconsidering the situation in Rwanda at its August 1998 session but, as Mr. Banton had said, it needed

up-to-date information to do so. The Committee could obtain such information in two ways: it could either address the Government directly, or ask the secretariat to transmit to it any pertinent information.

53. The CHAIRMAN said the Committee's secretariat could be asked to make the necessary arrangements with the United Nations Secretariat.

54. Mr. YUTZIS said the Committee's attitude towards the situation in Rwanda was very important and merited reflection by all members present.

55. Other United Nations bodies had perhaps not gone far enough in their analysis of that notorious example of inter-ethnic conflict and were not necessarily in a position to provide the Committee with all the information it needed on the subject.

56. As Ms. McDougall had rightly said, the fact that those responsible for the genocide remained unpunished was of capital importance, as the crimes that had been committed remained engraved on the collective conscience and fanned the flame of inter-ethnic hatred. However, it was certainly difficult to administer justice in a very poor country where there was little or no State and whose institutions had been dismantled. A parallel could be drawn with the situation in Haiti.

57. The members of the Committee should therefore realize that Rwanda was in an extremely vulnerable state and that it was pointless to recommend that the Government should take such and such a measure if it lacked the resources to do so.

58. In order to restore the situation to normal, it would be necessary to begin by repairing the social fabric, which would not be an easy task.

59. Instead of simply formulating purely rhetorical recommendations, the Committee should perhaps consider whether it could play a more active role on the country's behalf.

60. Mr. GARVALOV said he agreed in general with the views expressed by previous speakers and expressed the hope that the question of Rwanda would remain on the Committee's agenda under item 6 (early warning measures and urgent action procedures). He did not see why the Committee, which was one of the organs responsible for the protection of human rights within the United Nations system, could not in due course receive specific information on Rwanda. When he had been Chairman of the Committee in 1995, he had himself raised the question during consultations with the Secretary-General, who had assured him of his support in that connection. During her visit to the Committee at its previous meeting, the High Commissioner for Human Rights had done the same.

61. Ms. McDOUGALL said she agreed with Mr. Yutzis. Not only should the Committee do its best to obtain more information on recent developments in Rwanda, but it should also consider the possibilities within its field of competence of playing a more active role on the country's behalf. It would be useful to reflect on that point. The Committee should not limit itself to berating the Government of Rwanda but should help it to improve matters.

62. Mrs. SADIQ ALI said she too thought action was needed before the situation got out of control, as had happened in the past. She therefore favoured including the question in the agenda of the fifty-third session.

63. It was common knowledge that many countries sold or shipped arms to regions where ethnic conflicts were raging. In such cases, the international community should impose an arms embargo and the question should be placed on the Committee's agenda.

64. Mr. NOBEL said that in the case of Rwanda, knives, machetes and bows and arrows had probably played as important a role in the massacres as other types of weapons, although arms were unfortunately being exported to the country. He fully supported Ms. McDougall's observations: the Committee should try to obtain more recent information on developments and consider whether it could play a more active role in solving the problem. In that regard he would defer to the views of the more experienced members of the Committee.

65. The CHAIRMAN said the only United Nations body empowered to impose an arms embargo was the Security Council.

66. Mr. BANTON (Country Rapporteur) said he had no objection to Rwanda being placed on the agenda of the Committee's next session in August 1998. However, the Committee had been considering the question regularly since 1989, without achieving obviously any remarkable results.

67. He wished to dispel a misunderstanding: in reality, the Committee had no problem in obtaining all available information on the question within the United Nations system, but the fact was that much of that information was old and often not very useful.

68. The real problem was Rwanda's poverty, which made everything difficult. When a delegation from Rwanda had come before the Committee in March 1997, the representatives of the Rwandan Government had explained that the main obstacle in their path was the lack of material resources and means. The Committee should not adopt an attitude of superiority towards them nor put itself in their place in seeking practical solutions. As Country Rapporteur, he would try to draft a statement acceptable to all members of the Committee. Perhaps, in the light of what had been said, it was the tone of that statement that should be reflected on.

69. Mr. YUTZIS said that Mr. Banton was probably right to ask the Committee to show some modesty and realism. But did that mean it also had to confine itself to issuing statements? He himself had experienced unbearable situations during his mission to Croatia and could affirm that, from the standpoint of the populations concerned, who were facing serious problems in their daily life, statements were not of much help.

70. Mr. SHAHI said the Committee should take the right decision on the question. In order to do so, it should above all obtain recent information on how the situation was evolving, in order to evaluate its urgency. In that regard it could consult the Office of the High Commissioner for Human Rights, which could help it to determine whether another genocide was imminent. In

the light of that information, it could then decide what to do. If it turned out that the situation was becoming urgent, it could, for example, draw the attention of the Security Council to the matter.

71. The CHAIRMAN said a meeting had already been planned between the Committee's Bureau and the High Commissioner for Human Rights. The subject could be taken up at that time.

72. If members so desired, the question would be included in the agenda of the next session.

73. For the time being, a draft statement could be prepared by the Country Rapporteur, possibly with the help of members who had made suggestions. He proposed that the Committee should revert the matter at a future meeting once the text was ready and consultations with the High Commissioner for Human Rights had taken place.

74. It was so decided.

The meeting rose at 1.05 p.m.